IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9311 of 2004

Between:

T.Prabhaskar S/o Balair
Resident of Kolkod village Marpally Mandal, Ranga Reddy District

..... PETITIONER

AND

The Mandal Revenue Officer Mominpet Mandal, Mominpet,
Ranga Reddy District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction more in the nature of writ of mandamus declaring the action of the respondent by seizing the rice of 157.05 Quintals by conducting panchanama dated. 30/04/2004 in illegal, improper, null and void without any jurisdiction

Counsel for the Petitioner: MR.V.H.V.R.R.SWAMY, Advocate

Counsel for the Respondent: GP FOR REVENUE & Civil Supplies.

The Court made the following ORAL ORDER:

This Writ Petition is filed by the petitioner aggrieved by the action of the respondent in seizing the rice of 157.50 quintals under panchanama, dated 30.04.2004.

2. According to the petitioner, he is carrying on business in rice, and used to purchase paddy in the local areas, mill the same in the rice mills, and used to sell the stocks in the neighbouring markets. It is the case of

the petitioner that the Central Government by GSR 104(E) dated 15.02.2002 removed the restrictions on the specified foodstuffs, and the rice is one of the item with reference to which the restriction has been removed. Therefore, according to the petitioner, there is no violation in transporting or dealing with the rice. According to the petitioner, when he was transporting the above quantity of rice near the rice mill, the respondent seized the same even though he has no such power of seizure, and therefore, sought for a declaration that such seizure by the respondent under the panchanama, dated 30.04.2004 is illegal and for a consequential direction for the release of the said stocks.

3. A counter has been filed on behalf of the respondent stating that on receipt of information about the diversion of SGRY Stram-II rice to black-market, the respondent and the authorities of Vigilance & Enforcement Department, Hyderabad Rural have proceeded to the spot and found the lorry bearing No. KA 39-352, carrying 315 bags, containing 50 kgs each, totaling about 157.50 quintals of rice. The driver of the lorry when questioned stated that the rice found in the lorry was loaded from MLS point, Mominpet and proceeding to Sadhashivpet of Medak district, and the other person, by name P. Nagendrappa, accompanying the lorry, was found with the release order dated 2.4.2004 for 100 quintals of rice issued by the Mandal Revenue Officer, Marpally, in favour of one Sri S. Ramulu, Fair Price Shop dealer of Kalkoda village, Marpally Mandal for distribution to the labour for the works undertaken under SGRY programme at Kalkonda village. The remaining rice was found without any valid release order issued by the competent authority. The stocks have been verified and the authorities found the FCI mark on the gunny bags. Therefore, it is determined that the rice is the property of

the Government and carried by the unauthorized persons. Being the Government property, the Mandal Revenue Officer has got power to protect the same by seizing the stock, which was subsequently handed over to the concerned Police for registering a criminal case. Accordingly, Crime No.48 of 2004 was registered and the same is pending before the Judicial First Class Magistrate, Vikarabad. The seized property was also deposited in the Court. The lorry seized was released by the SHO after obtaining the necessary receipts from the owner of the vehicle.

4. The learned Government Pleader has also supported the counter averments stating that as the Government property is being transported illegally, it is seized by the Mandal Revenue Officer and handed over to the police for appropriate action.

5. Heard the learned counsel for the petitioner and the learned Government Pleaders for Revenue and Civil Supplies, and considered the material on record.

6. The learned counsel for the petitioner contended that the Mandal Revenue Officer has no power to seize the rice, as was seized by him, and therefore, sought for a declaration that the said seizure is illegal and without jurisdiction. The learned counsel for the petitioner sought to rely upon a Judgment of this Court in the case of ***Sheela Srinivas v. District Collector, Karimnagar Dist.***[1]. Admittedly, in the present case rice to the extent of 157.50 quintals was seized by the Mandal Revenue Officer on the premise that the said rice was identified as belongs to the Government in view of the FCI marks on the gunny bags and also with other incidental material identifying the same as intended for 'food for work'. According to the respondent, as he has received information as to the diversion of rice intended for 'food for work' to the black market, he

along with the officials of the Enforcement Department went to the spot and found the rice that was being transported, and after verification, as it was identified that the Government rice is being transported illegally, the stock was seized and handed over to the Police for appropriate action by initiating criminal proceedings. The said action is assailed by the petitioner stating that the respondent has no such powers to seize the rice. Though the learned counsel relied upon a Judgment of this Court referred to above, I do not find that there is any merit in the contention of the learned counsel for the petitioner. When a Government Officer found that the property of the Government is being illegally transported or diverted to black market, he can take appropriate action to prevent the same, as provided under law. Here, the respondent-Mandal Revenue Officer seized the stock and handed over the same to the concerned Station House Officer for appropriate action. Therefore, in the said action, there is no illegality or irregularity. Apart from that, any individual having responsibility can protect the property of the Government by taking appropriate action. Here, the respondent seized the stock, which belongs to the Government and handed over the same to the Station House Officer, who has got jurisdiction to initiate criminal proceedings. Hence, in such action of the respondent-authority there is no illegality, which is intended to protect the property of the Government. If the presumption or assumption of the respondent is incorrect, it is always open to the petitioner to prove before the competent authority, where the proceedings are initiated or in case the police authorities failed to prove the case against the petitioner, the petitioner may got the benefit, but the said action cannot be branded as illegal and without jurisdiction.

7. Under the above circumstances, the Writ Petition is devoid of merit

and the same is accordingly dismissed. But, however, as the seized stock has already been deposited in the jurisdictional Criminal Court, it is always open to the petitioner to approach the Criminal Court for appropriate orders, if he so chooses.

8. The Writ Petition is accordingly dismissed at the admission stage. No costs.

S.Ananda Reddy,J.

Dt. 01.07.2004
Kvh

Sd/-
ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Mandal Revenue Officer, Mominpet, Ranga Reddy district.
2. Two CCs. to the G.P. for Revenue, High Court of A.P., Hyderabad (OUT)
3. Two CCs. to the G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT)
4. Two CD Copies.

Kvh

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P.No. 9311 of 2004

ORAL ORDER

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[1] 2002(6) ALT 700